in bankruptcy against defendant, who was president and general manager of the company, that he was not liable beyond $3,300, the amount for which he originally subscribed, even though the statute forbade the corporation to commence business before the whole amount of the capital stock was subscribed. *McKay* v. *Garman,* (Wash. 1915), 153 Pac. 1082.

The undoubted weight of authority is to the effect that a corporation such as the one in this case has at least a de facto existence. *Roosevelt, et al.* v. *Hamblin,* 199 Mass. 127, 85 N. E. 98, 18 L. R. A. (N. S.) 748; *Abbott* v. *Omaha Smelting and Refining Co.,* 4 Neb. 416; *New Haven & D. R. Co.* v. *Chapman,* 38 Conn. 56; *Com.* v. *Wm. Mann Co.,* 150 Pa. 64, 24 Atl. 601; *Nemaha Coal & Mining Co.* v. *Settle,* 54 Kan. 424, 38 Pac. 483; *Ossipee Hosiery & Woolen Mfg. Co.* v. *Canney* 54 N. H. 295; *Falconer* v. *Campbell,* 2 McLean 195; *Hunt* v. *Kansas & M. Bridge Co.,* 11 Kan. 412; *Braintree Water Supply Co.* v. *Braintree,* 146 Mass. 482, 16 N. E. 420; *Judah* v. *American Livestock Ins. Co.,* 4 Ind. 333; *Union Water Co.* v. *Kean,* 52 N. J. Eq. 111, 27 Atl. 1015. Hence, defendant's liability was properly limited to that of a stockholder, for there was unquestionably an "organization for the purpose of transacting business." But see *Walton* v. *Oliver,* 49 Kan. 107, 33 Am. St. R. 355, 30 Pac. 172; *Kaiser* v. *Lawrence Savings Bank,* 56 Ia. 104, 41 Am. R. 85; *Coleman* v. *Coleman,* 78 Ind. 344; *McVicker* v. *Cone,* 21 Or. 353, 28 Pac. 76; *Mokelumme Hill Min. Co.* v. *Woodbury,* 14 Cal. 424, 73 Am. Dec. 658. The doctrine of the case is based on the theory that the statute in question is directory only, and consequently that, so long as the state makes no affirmative move to compel compliance therewith, the acts of the corporate officers are as immune from attack as the acts of officers representing a de jure corporation. This decision is approved and followed in most states, but has been repudiated in others, either on the grounds of fraud or on the grounds that the officers are bound as agents of a principal incapable, because of the unsubscribed stock, of being bound except to a prescribed and definite amount. *Welchselberg* v. *Flour City Nat. Bank,* 64 Fed. 90, 26 L. R. A. 470, 12 C. C. A. 56; *Burns* v. *Beck & G. Hardware Co.,* 83 Ga. 471, 10 S. E. 121; *People* v. *Chalmers,* 42 Cal. 201; *Farmers' Co-operative Trust Co.* v. *Floyd, et al.,* 47 Oh. St. 525, 12 L. R. A. 346, 21 Am. St. R. 46, 21 N. E. 110. It seems, however, that the decision in the principal case is logical and consonant with the legal conception of the status of a de facto corporation. The fact that the corporation does exist and that a judgment on its contracts may be rendered and enforced against it is conclusive that the officers had authority to make those contracts, and creditors ought to be estopped to controvert that authority. *Am. Radiator Co.* v. *R. J. Kinnear, et al.,* 56 Wash. 210, 105 Pac. 630, 35 L. R. A. (N. S.) 453.

CORPORATIONS.—BURDENS ON FOREIGN CORPORATIONS.—The plaintiff instituted a suit in replevin to obtain possession of certain personal property which was being withheld by a sheriff. Defendant, as intervener, answered by alleging that the plaintiff, a foreign corporation, had no right to sue in the courts of the state, because it had failed to comply with a certain statute, the provisions of which required all foreign corporations, regardless of

whether they had already established their business in the state, (1) to appoint a resident agent, (2) to file a certified copy of their articles of association with the secretary of state, and (3) to pay a small fee. *Held,* that the plaintiff could not recover. *Goodner-Krumm Co.* v. *J. L. Owens Mfg. Co.,* (Okla. 1915), 152 Pac. 86.

If the corporation in this case was not already engaged in business in the state when the statute took effect, it was unquestionably bound by the provisions thereof; for it could have no legal existence within the state until it had complied with all the conditions precedent to its right of entry. If, on the other hand, it was already engaged in business in the state, the decision rendered illustrates the unwillingness of the courts to adhere strictly to the rule enunciated by Justice WHITE in the case of the *Western Union Telegraph Co.* v. *Kansas,* 216 U. S. 1. His theory, if extended to its logical conclusion, would have forbidden the enforcement of the statute in question as against the plaintiff; for it imposes upon the plaintiff a burden which the state, when it admitted the company within its boundaries, impliedly promised would not subsequently be imposed. But the courts, by holding that the state may subject such corporations to an additional burden, (provided it does not interfere with the business of corporations controlled or employed by the federal government and amounts to nothing more than a reasonable requirement designed to subject foreign corporations to a control similar to that imposed upon domestic corporations), have modified the theory of Justice WHITE. *Baltic Mining Co.* v. *Com.,* 207 Mass. 381; *White Dental Co.* v. *Com.,* 212 Mass. 35; 13 MICH LAW REV. 258. Hence the court appears to have been justified in disallowing the plaintiff's claim. But see *Am. Typefounder's Co.* v. *Conner,* 6 Misc. 391, 26 N. Y. Supp. 742, 56 N. Y. St. Rep. 398; *Smith* v. *Little,* 67 Ind. 549; *Boulden* v. *Estey Organ Co.,* 92 Ala. 182, 9 So. 283; *Powder River Cattle Co.* v. *Custer County,* 9 Mont. 145; *Middlebrook* v. *David Bradley Mfg. Co.,* (Tex. Civ. App.), 27 S. W. 169; *King Optical Co.* v. *Royal Ins. Co.,* 24 Pa. Super. Ct. 527. It seems, however, that the plaintiff might easily have protected itself; for, in the first place, if the property involved was worth $3,000, a statute such as the one in question does not prevent the institution of a suit in the federal court. *Bank of British N. Am.* v. *Barling,* 44 Fed. 641; *Haley Livestock Co.* v. *Routt County,* 94 Fed. 297, 36 C. C. A. 350; 12 MICH. LAW REV. 410. But see, *Nat. Mercantile Co.* v. *Watson,* 215 Fed. 929. Furthermore, the plaintiff, if it had complied with the statute at any time before bringing suit, would have had a standing in court. *Crefeld Mills* v. *Goddard,* 69 Fed. 141; *Walter A. Wood Mowing and Reaping Machine Co.* v. *Caldwell,* 54 Ind. 270; *Singer Mfg. Co.* v. *Brown,* 64 Ind. 548; *Nat. Mut. Fire Ins. Co.* v. *Purcell,* 92 Mass. (10 Allen) 231; *Carson-Rand Co.* v. *Stern,* 129 Mo. 381, 31 S. W. 772; *Huttig Bros. Mfg. Co.* v. *Denny Hotel Co.,* 6 Wash. 122, 32 Pac. 1073; *McCarthy* v. *Alphons Custodis Chimney Const. Co.,* 219 Ill. 616, 76 N. E. 850; *Ryan Livestock & Feeding Co.* v. *Kelly,* 71 Kan. 874, 81 Pac. 470; *International Trust Co.* v. *Leschen & Son Rope Co.,* 41 Colo. 299, 92 Pac. 727; *Kendrick & Roberts* v. *Warren Bros. Co.,* 110 Md. 47, 72 Atl. 461. But see, *Heilman Brewing Co.* v. *Piemeisl,* 85 Minn. 121, 88 N. W. 441; *Delaware River Quarry &*

Constr. Co. v. *Bethlehem & N. Pass. R. Co.*, 204 Pa. 22, 53 Atl. 533; *Am. Copying Co.* v. *Eureka Bazaar*, 20 S. D. 526, 108 N. W. 15, 9 L. R. A. (N. S.) 1176.

CORPORATIONS.—INDEPENDENT ACTION OF GENERAL MANAGER.—The general manager of a corporation, without any corporate meeting having been held, engaged a physician to attend an injured employee. Subsequently, he personally interviewed more than a majority of the directors concerning the matter and none of them expressed any dissent to his action. *Held*, in the physician's suit for fees, that, in view of the ratification and the fact that the company had adopted a policy of permitting the general manager to transact routine business, it was estopped to deny liability. *Indiana Die-Casting Development Co.* v. *Newcomb*, (Ind. 1915), 111 N. E. 16.

The court in arriving at its decision, took into consideration and carefully emphasized the fact that there was a ratification of the act of the general manager. Since, however, it is a general rule that no corporate action is valid and binding, unless authorized and sanctioned by the board of directors duly assembled as a deliberative body, it is obviously an indisputable fact that the personal and individual assent of the majority of the directors was no more effectual as a ratification than it would have been as an authorization prior to the act. *Western Land Ass'n.* v. *Ready*, 24 Minn. 350; *Appeal of Crum*, 66 Pa. St. (16 P. F. Smith) 474. Furthermore, the intangible services of a physician cannot be re-delivered to him; so there was no "acceptance and retention" of benefits, in the proper sense of those words. *Waynesville Nat'l Bank* v. *Irons*, 8 Fed. 1; *Rockford, R. I. & St. L. R. Co.* v. *Shunick*, 65 Ill. 223; *Marbourg* v. *Lloyd, Son & Co.*, 21 Kan. 545; *Patten* v. *Moses*, 49 Me. 255; *Millbank* v. *DeRiesthal*, 82 Hun. 537, 31 N. Y. Supp. 522, 64 N. Y. St. Rep. 616; *Tyrell* v. *Cairo & St. L. B. Co.*, 7 Mo. App. 294. It seems that the case might well have been disposed of without any reference to the doctrine of ratification; for there is a growing tendency on the part of the courts to subject corporations to liability in cases similar to this one, either because of an implied authority recognized as existing in the general manager, or because of inferences naturally arising out of past conduct. *Bank* v. *Rutland R. Co.*, 30 Vt. 159; *Winsor* v. *Lafayette Co. Bank*, 18 Mo. App. 665; *Fifth Ward Sav. Bank* v. *First Nat'l Bank*, 48 N. J. L. (19 Vroom) 513, 7 Atl. 318; *Union Gold-Mining Co.* v. *Rocky Mt. Nat'l Bank*, 2 Colo. 248; *Stokes* v. *N. J. Pottery Co.*, 46 N. J. L. 237; *Martin* v. *Webb*, 110 U. S. 71, 3 Sup. Ct. 428, 28 L. Ed. 49; *Commer. Mut. Mar. Ins.* v. *Union Mut. Ins. Co.*, 19 How. 318, 15 L. Ed. 636; *Mining Co.* v. *Anglo-California Bank*, 104 U. S. 192, 26 L. Ed. 707; TAYLOR, CORP., §§ 202, 236, 237; 11 MICH. LAW REV. 403; 17 HARV. LAW REV. 133. The following cases, however, are directly in accord with the principal case as concerns the necessity for a ratification. *Great Western R. R. Supply Co.* v. *Bowman*, 17 Ill. App. 353; *Fister* v. *LaRue*, 15 Barb. (N. Y.) 323.

CORPORATIONS.—LIABILITY FOR TORT INVOLVING MALICE.—Defendant Crane was the defendant corporation's district agent having general charge of its business in the state of Iowa. The plaintiff was a local agent. Crane, in or-